

Before The
N.H. Air Resources Council
Concord, N.H. 03301

Application of:

Wheelabrator Claremont Company, L.P.
Permit No. TV-OP-050

Docket No. 04-06

MOTION TO INTERVENE

Wheelabrator Claremont Company, L.P. ("Petitioner") hereby moves for leave to intervene in the above-captioned matter which is the subject of a Notice of Appeal submitted by Working on Waste. In support of this motion, Petitioner states as follows:

1) Petitioner is the owner and operator of the facility which is the subject of the proposed Title V permit at issue in this proceeding. On August 6, 1996, Petitioner filed an Application and on January 28, 2004, New Hampshire Department of Environmental Services ("DES") approved Petitioner's application and issued the proposed Title V permit. As permittee, any change in the disposition of the proposed permit resulting from this proceeding will affect Petitioner. Thus, Petitioner's interests are clearly at stake in this proceeding.

2) Petitioner seeks intervention in this proceeding in support of issuance of the proposed permit.

3) As owner, operator and permittee, Petitioner's intervention in this proceeding will materially contribute to the prompt and orderly conduct of this proceeding.

4) The interests of Petitioner cannot be adequately represented by the other prospective party.

5) Intervention is generally allowed under New Hampshire law where the moving party has a right involved in the litigation and its direct and apparent interest may suffer, depending upon the outcome of the case. See Petition of Keene Sentinel, 136 N.H. 121, 125, 612 A.2d 911, 913-14 (1992); Snyder v. N.H. Sav. Bank, 134 N.H. 32, 592 A.2d 506 (1991).

WHEREFORE, Wheelabrator Claremont Company, L.P. respectfully requests this Council:

A. Grant its Motion To Intervene in this proceeding;

Respectfully submitted,

Wheelabrator Claremont Co., L.P.

By Its Attorneys,

McLANE, GRAF, PAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: 3/12/04

By: 

Gregory H. Smith

Barry Needleman

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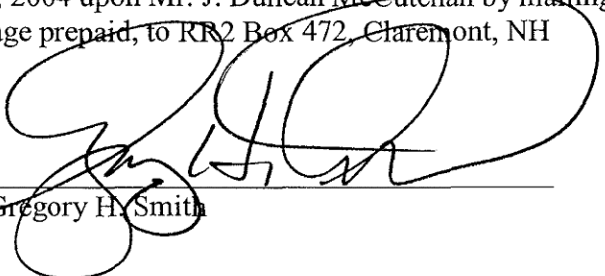
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Certificate of Service

I hereby certify that on March 15, 2004, I served the attached Appearance, Motion to Intervene and letter dated March 12, 2004 upon Mr. J. Duncan McCutchan by mailing copies thereof by first class mail, postage prepaid, to RR2 Box 472, Claremont, NH 03743.

Dated: March 15, 2004



Gregory H. Smith